



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,585	11/28/2000	Alexander J. Dyakonov	4800-090	8519

7590 08/06/2002
RHODES & MASON, P.L.L.C.
P.O. Box 2974
Greensboro, NC 27402

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
----------	--------------

1731

50

DATE MAILED: 08/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 09/723,585	Applicant(s) DYAKONOV ET AL.	
	Examiner Carlos Lopez	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-47 is/are pending in the application.
- 4a) Of the above claim(s) 4-21 and 41-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 22-30, 32-40, 46 and 47 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>687</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment to the claims filed on 5/8/02 has been entered as Paper No. 10.

The rejections made under 35 U.S.C 112 2nd Paragraph of claims 1-3, 22-40 and 46-47 is withdrawn.

Election/Restrictions

Applicant's election of Group 1, claims 1-3, 22-40, and 46-47 in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 4-21 and 41-45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

Specification

Claim 40 is objected to because of the following informalities: Claim 40 is dependent on cancelled claim 31. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1) Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The present disclosure does not support a flux from the adsorption material being separate¹ from the mainstream combustion products. At page 5 of the present disclosure, support is provided for the presence of a flux from the adsorption material but does not support said flux being separate from the main stream combustion products.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 1-3, 22-30, 32-40, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dale et al (US 4,317,460) in view of Wahle et al (US 4,301,816). Dale discloses catalyst for the oxidation of CO to CO₂ for use in a filter of a smoking product (Column 6, lines 57-68). A smoking product as defined by Dale may be a

¹ **sep·a·rate** (sèp'e-rât') *verb*

sep·a·rat·ed, sep·a·rat·ing, sep·a·rates *verb, transitive*

1. a. To set or keep apart; disunite. b. To space apart.
2. To differentiate or discriminate between; distinguish.
3. To remove from a mixture or combination; isolate.
4. To part (a couple), often by decree: *She was separated from her husband last year.*

Art Unit: 1731

cigarette as disclosed in Column 1, line 4. Dale's catalyst system comprises of a metal component belonging to Groups 6-8 of the periodic table (Column 4, lines 15-50) with a support structure (absorbent) made of a zeolite or alumina (amorphous oxide) (Bridging paragraph of Columns 4 and 5). Dale additionally teaches that the claimed CO pump may be used in the triple filters for smoking products (such as a cigarette as disclosed in Column 1, line 4), wherein the middle portion contains the catalyst system or the catalyst system may be part of the whole cigarette filter (Column 6, lines 57-68). Dale is silent disclosing a cigarette having a tobacco column enveloped by a wrapper.

However, it is expected that conventional cigarettes comprise of a tobacco column having a wrapper enveloping the tobacco column. Dale is silent disclosing venting holes adjacent to the absorbent material. However, Wahle teaches of providing venting holes adjacent the filter of a cigarette in order to decrease the percentage of nicotine and tar inhaled by the smoker via perforations on the tipping paper (Column 1, Lines 35-40). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use perforated tipping paper as Taught by Whale et al in order to reduce inhaled tar and nicotine in Dale et al's cigarette.

The newly added limitation of claim 1 recites a flux from the adsorbent material being separate from the mainstream combustion products. The un-reacted or reacted carbon monoxide desorbed from the absorption material would create a flux from the adsorption material. A portion of the desorbing flux released from the adsorption

5. To terminate a contractual relationship, as military service, with; discharge.¹

Art Unit: 1731

material would be separated from the main stream of combustion products via the perforations of the tipping paper surrounding the pump/filter.

As for claim 29, Dale is silent disclosing the filter material of the other filters in its triple filter assembly and one of ordinary skill in the art would assume they are conventional filters made of conventional filter material such as those claimed by applicant. Examiner takes official notice that it is well known cellulose acetate has been used as filter material for cigarettes.

As for claims 46 and 47, the claimed fitting is the tipping paper present in conventional cigarettes in order to join the filter element to the tobacco rod element of a filter cigarette.

Response to Arguments

Applicant's arguments filed 5/8/02 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1731

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

C.L
July 30, 2002